

ASSEMBLY BILL

No. 2126

Introduced by Assembly Members Lieu and Leno

February 21, 2006

An act to amend Section 580 of the Code of Civil Procedure, and to amend Section 290 of, and to repeal and add Sections 291 and 4502 of, the Family Code, relating to enforcement of judgments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2126, as introduced, Lieu. Enforcement of judgments.

(1) Existing law provides that certain types of relief may not be granted in a limited civil case, including enforcement of an order under the Family Code.

This bill would remove the enforcement of an order under the Family Code from the listed types of relief that may not be granted in a limited civil case.

(2) Under existing law, a judgment or order for possession or sale of property made or entered pursuant to the Family Code is subject to a specified period of enforceability and a procedure for renewal. Existing law also provides that a judgment for child, family, or spousal support is enforceable until paid in full and is exempt from any requirement that judgments be renewed, but may be renewed as specified.

This bill would revise and recast these provisions to provide, instead, that a money judgment or judgment for possession or sale of property that is made or entered under the Family Code, including a judgment for child, family, or spousal support, is enforceable until paid in full or otherwise satisfied. The bill would provide that these judgments are exempt from any requirement that a judgment be renewed, but may be renewed as specified.

(3) The bill would require the Judicial Council, on or before January 1, 2008, to publish self-help materials that include a description of the remedies available for enforcement of a judgment under the Family Code, and practical advice on how to avoid disputes relating to the enforcement of a support obligation.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 580 of the Code of Civil Procedure is
2 amended to read:

3 580. (a) The relief granted to the plaintiff, if there is no
4 answer, cannot exceed that ~~which he or she shall have~~ demanded
5 ~~in his or her~~ the complaint, in the statement required by Section
6 425.11, or in the statement provided for by Section 425.115; but
7 in any other case, the court may grant the plaintiff any relief
8 consistent with the case made by the complaint and embraced
9 within the issue. The court may impose liability, regardless of
10 whether the theory upon which liability is sought to be imposed
11 involves legal or equitable principles.

12 (b) Notwithstanding subdivision (a), the following types of
13 relief may not be granted in a limited civil case:

14 (1) Relief exceeding the maximum amount in controversy for
15 a limited civil case as provided in Section 85, exclusive of
16 attorney's fees, interest, and costs.

17 (2) A permanent injunction.

18 (3) A determination of title to real property.

19 (4) ~~Enforcement of an order under the Family Code.~~

20 ~~(5) Declaratory relief, except as authorized by Section 86.~~

21 SEC. 2. Section 290 of the Family Code is amended to read:

22 290. ~~Subject to Section 291, a~~ A judgment or order made or
23 entered pursuant to this code may be enforced by the court by
24 execution, the appointment of a receiver, or contempt, or by any
25 other order as the court in its discretion determines from time to
26 time to be necessary.

27 SEC. 3. Section 291 of the Family Code is repealed.

28 ~~291. A judgment or order for possession or sale of property~~
29 ~~made or entered pursuant to this code is subject to the period of~~
30 ~~enforceability and the procedure for renewal provided by Chapter~~

1 ~~3 (commencing with Section 683.010) of Division 1 of Title 9 of~~
2 ~~Part 2 of the Code of Civil Procedure.~~

3 SEC. 4. Section 291 is added to the Family Code, to read:

4 291. (a) A money judgment or judgment for possession or
5 sale of property that is made or entered under this code, including
6 a judgment for child, family, or spousal support, is enforceable
7 until paid in full or otherwise satisfied.

8 (b) A judgment described in this section is exempt from any
9 requirement that a judgment be renewed. Failure to renew a
10 judgment described in this section has no effect on the
11 enforceability of the judgment.

12 (c) A judgment described in this section may be renewed
13 pursuant to Article 2 (commencing with Section 683.110) of
14 Chapter 3 of Division 1 of Title 9 of Part 2 of the Code of Civil
15 Procedure. An application for renewal of a judgment described in
16 this section, whether or not payable in installments, may be filed:

17 (1) If the judgment has not previously been renewed as to past
18 due amounts, at any time.

19 (2) If the judgment has previously been renewed, the amount
20 of the judgment as previously renewed and any past due amount
21 that became due and payable after the previous renewal may be
22 renewed at any time after a period of at least five years has
23 elapsed from the time the judgment was previously renewed.

24 (d) In an action to enforce a judgment for child, family, or
25 spousal support, the defendant may raise, and the court may
26 consider, the defense of laches only with respect to any portion
27 of the judgment that is owed to the state.

28 (e) Nothing in this section supersedes the law governing
29 enforcement of a judgment after the death of the judgment
30 creditor or judgment debtor.

31 (f) On or before January 1, 2008, the Judicial Council shall
32 publish self-help materials that include: (1) a description of the
33 remedies available for enforcement of a judgment under this
34 code, and (2) practical advice on how to avoid disputes relating
35 to the enforcement of a support obligation. The self-help
36 materials shall be made available to the parties in a proceeding
37 under this code.

38 (g) As used in this section, "judgment" includes an order.

39 SEC. 5. Section 4502 of the Family Code is repealed.

1 ~~4502. (a) Notwithstanding any other provision of law, a~~
2 ~~judgment for child, family, or spousal support, including a~~
3 ~~judgment for reimbursement that includes, but is not limited to,~~
4 ~~reimbursement arising under Section 17402 or other arrearages,~~
5 ~~including all lawful interest and penalties computed thereon, is~~
6 ~~enforceable until paid in full and is exempt from any requirement~~
7 ~~that judgments be renewed.~~

8 ~~(b) Although not required, a judgment described in~~
9 ~~subdivision (a) may be renewed pursuant to the procedure~~
10 ~~applicable to money judgments generally under Article 2~~
11 ~~(commencing with Section 683.110) of Chapter 3 of Division 1~~
12 ~~of Title 9 of Part 2 of the Code of Civil Procedure. As provided~~
13 ~~in subdivision (a), the option of renewing the judgment has no~~
14 ~~effect on the enforceability of the amount due. An application for~~
15 ~~renewal of a judgment described in subdivision (a), whether or~~
16 ~~not payable in installments, may be filed:~~

17 ~~(1) If the judgment has not previously been renewed as to past~~
18 ~~due amounts, at any time.~~

19 ~~(2) If the judgment has previously been renewed the amount of~~
20 ~~the judgment as previously renewed and any past due amount~~
21 ~~that became due and payable after the previous renewal may be~~
22 ~~renewed at any time after a period of at least five years has~~
23 ~~elapsed from the time the judgment was previously renewed.~~

24 ~~(c) In an action to enforce a judgment for child, family, or~~
25 ~~spousal support, the defendant may raise, and the court may~~
26 ~~consider, the defense of laches only with respect to any portion~~
27 ~~of the judgment owed to the state.~~

28 SEC. 6. Section 4502 is added to the Family Code, to read:

29 4502. The period for enforcement and procedure for renewal
30 of a judgment or order for child, family, or spousal support is
31 governed by Section 291.